IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

Ratan Lal and ors. Vs. State and anr.

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S.B. CRIMINAL MISC.PETITION NO.592/1998

u/S. 482 Cr.P.C.

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Date of Order:- **August 24, 2006.**

P R E S E N T

HON'BLE MR.JUSTICE HARBANS LAL

Mr. V.P. Bishnoi for the accused-petitioners.
Mr. Arun Sharma P.P. for the State.
Mr. Rajeev Sogarwal for respondent No.2.

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BY THE COURT:-

This petition under Section 482 r/w. Section 483 Cr.P.C. is directed against the order dated 16/3/1998 passed by the learned Additional Sessions Judge, Behror in Sessions Case No.36/1997 whereby charges for offences under Sections 304, 148, 304/149 and 323 IPC have been framed against the petitioners.

Learned counsel for the petitioners has stated at the outset that he does not press this petition in respect of petitioners No.1 to 4 as from the materials on record atleast it can be said that there is some material against these petitioners to frame charges but he has vehemently contended that there is absolutely no evidence worth the name against petitioners No.5 and 6

namely; Smt.Ramrati and Smt.Laxmi. According to him, deceased Smt.Kaushalya has named them in her statement recorded during the course of investigation under Section 161 Cr.P.C. He has also submitted that even the witnesses who have named them have not specified any overt act on their part so as to show their active involvement in the alleged occurrence.

Learned Public Prosecutor and learned counsel for non-petitioner No.2-Complainant, though opposed the petition, are not able to point out anything from the record on the basis of which active involvement of petitioners No.5 and 6 could be inferred even prima-facie so as to justify framing of the charges against them. There is no direct or circumstantial evidence against them that they shared common object of the unlawful assembly and did anything in furtherance of the said common object.

After hearing learned counsel for the parties as well as learned Public Prosecutor for the state I have perused the impugned-order as well as the relevant record.

It may be worthwhile to mention here that occurrence out of which this petition has arisen took place on 1/7/1989. The instant petition was also filed as back as in the year 1998. After filing of this petition record was summoned from the trial court which is lying in this Court till date resulting in virtual stay on the proceedings before the trial court. It is strange that this state of affairs is going on despite the fact that non-petitioner No.2-Complainant ought to

be interested in the early disposal of the matter. During this long period, as learned counsel for

complainant Ramniwas has pointed out, two of the accused petitioners namely; Basanta and Rajaram have expired. It may be likely that some of the material witnesses might have also met the same fate rendering this trial fruitless and meaningless.

Keeping this background in view I have considered the submissions made at the bar in the light of the materials on record and as indicated above there being no specific overt act attributed to petitioners No.5 and 6 the order impugned framing charges against them cannot be sustained and deserves to be quashed.

Consequently, this petition u/S.482 Cr.P.C. is partly allowed. The order dated 16/3/1998 passed by the learned Additional Sessions Judge Behror framing charges against petitioners No.5 and 6, Smt.Ramrati and Smt.Laxmi, respectively is quashed to their extent only.

This petition u/S.482 Cr.P.C. however is hereby dismissed as not pressed in regard to petitioners No.1 to 4.

Record of the trial court be sent back forthwith with the direction to expedite the trial as the matter is very old.

(HARBANS LAL), J.

anil/-